

PLANNING COMMISSION MINUTES

August 15, 2001

CALL TO ORDER:

Vice-Chairman Dan Maks called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Vice-Chairman Dan Maks, Planning Commissioners Bob Barnard, Gary Bliss, Russell Davis and Eric Johansen. Chairman Vlad Voytilla and Planning Commissioner Brian Lynott were excused.

Development Services Manager Steven Sparks, AICP, Planning Consultant Irish Bunnell, Principal Planner Hal Bergsma, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Vice-Chairman Maks, who presented the format for the meeting.

VISITORS:

Vice-Chairman Maks asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Development Services Manager Steven Sparks referred to a pamphlet for the *Oregon Planners Institute Conference* scheduled for the first week in October of 2001, observing that funds are budgeted for any Planning Commissioners who would like to attend this

NEW BUSINESS:

WORK SESSION:

DEVELOPMENT CODE UPDATE

Mr. Sparks introduced himself and Planning Consultant Irish Bunnell and briefly summarized last week's work session, which addressed Chapter 50 of the

1 Development Code, observing that this evening's work session would focus on
2 Chapter 40, the application section of the Development Code.

3
4 Noting that Chapter 40 is quite significant, Vice-Chairman Maks indicated that he
5 would like to review this chapter section by section.

6
7 Vice-Chairman Maks requested questions or comments regarding pages AP-1
8 through AP-2, Section 40.03, regarding the Facilities Review Committee.

9
10 Referring to page AP-1, Section 40.03.1, which states that all critical facilities and
11 services related to the development have, or can be improved to have, adequate
12 capacity to serve the proposal at the time of its completion, Commissioner
13 Johansen questioned whether this reflects a change in policy.

14
15 Mr. Sparks advised Commissioner Johansen that this particular criteria had been
16 taken from the technical standards of the existing design approval criteria, noting
17 that although the criteria has been modified slightly in order to reduce the length
18 of the criteria, this does not represent a change in policy.

19
20 Commissioner Johansen pointed out that one could conceivably argue that as long
21 as there is an ability to provide adequate capacity, it need not be there at the time
22 of the proposal.

23
24 Mr. Bunnell agreed that the capacity must either be in place or the ability to get it
25 there should be demonstrated, pointing out that the question remains of whose
26 responsibility this is.

27
28 Mr. Sparks pointed out that in order to impose Conditions of Approval on a
29 project, these conditions must address applicable approval criteria.

30
31 Vice-Chairman Maks requested questions or comments regarding pages AP-3
32 through AP-5, Section 40.05, regarding Accessory Dwelling Units.

33
34 Vice-Chairman Maks referred to page AP-1, Section 40.03.2, which states that in
35 lieu of providing essential facilities and services, a specific plan strategy may be
36 submitted demonstrating how they shall be provided within five years of
37 occupancy. Observing that schools are an essential service, he noted that if this
38 specific service is not available, this requirement could not be met within five
39 years of occupancy and that this is beyond the control of any applicant.

40
41 Commissioner Johansen requested clarification of what might be included within
42 the definition of essential services and facilities.

43
44 Mr. Sparks described essential services and facilities as schools, transit
45 improvements, police protection and on-site pedestrian and bicycle facilities in
46 the public right-of-way. He advised Commissioner Johansen that he is correct in

1 his assumption that essential services and facilities differs from the pure
2 infrastructure type improvements, such as water and sewer, which must be
3 available at the time of completion.
4

5 Commissioner Barnard referred to Commissioner Bliss' comments regarding page
6 AP-2, Section 40.03.8, observing that Commissioner Bliss had indicated that
7 economics and good design should control, rather than minimize, the amount of
8 grading.
9

10 Mr. Sparks expressed his opinion that this appears to be a reasonable suggestion,
11 adding that he had only recently received a copy of Mr. Bliss's comments and has
12 not yet had the opportunity to review them thoroughly.
13

14 Vice-Chairman Maks referred to page AP-4, Section 40.05.15.1.C.5, requesting
15 whether such a proposed accessory dwelling unit would be required to meet all of
16 the other site development standards.
17

18 Mr. Sparks advised Vice-Chairman Maks that this is correct, adding that site
19 development requirements are specified in Chapter 60 of the Development Code.
20 He referred to Chapter 20, Criteria No. 3, observing that while this is consistently
21 in Type 1 applications, the proposal is consistent with all applicable provisions of
22 Chapter 20, which provides for setbacks, parking, etc.
23

24 Vice-Chairman Maks requested clarification of whether a proposed accessory
25 dwelling unit on a residential lot includes a side yard setback adjustment would
26 involve a Type 1 application.
27

28 Mr. Sparks informed Vice-Chairman Maks that a minor adjustment would require
29 a Type 2 application. He pointed out that Chapter 50 actually merges both
30 applications together for one decision by the Planning Director, adding that this
31 particular application would require notification.
32

33 Mr. Sparks suggested that it might benefit the public if he were to also announce
34 the application titles that are being discussed.
35

36 Vice-Chairman Maks requested questions or comments regarding pages AP-6
37 through AP-8, Section 40.10, regarding Minor Adjustments.
38

39 Vice-Chairman Maks pointed out that site development requirements can be
40 varied by up to and including 10% in any zone that has to do with height,
41 setbacks, etc. Noting that this involves a Type 2 application, he mentioned that
42 while all criteria must be satisfied, in his opinion, certain approval criteria is
43 subjective, as follows:
44

- 45 3. Special conditions exist which are unique to the land, structure, or
46 building involved.

1 4. Granting the adjustment will result in a project that equally or better
2 meets the regulation to be modified.

3
4 7. If more than one (1) Minor Adjustment is being requested, the
5 cumulative effect of the adjustments will result in a project, which is
6 still consistent with the overall purpose of the applicable zone.

7
8 Vice-Chairman Maks mentioned while the criteria for a Type 1 application is
9 clear and definable, the criteria for a Type 2 application enters more subjective
10 areas. He described a potential application for a home remodel, and questioned
11 whether the public would construe a Planning Director's decision on a Type 2
12 application to be a fair land use process.

13
14 Commissioner Johansen expressed his opinion that this involves many issues.

15
16 Observing that he is actually comfortable with this situation, Vice-Chairman
17 Maks stated that he only wanted to be certain that everyone else is aware. He
18 emphasized that while this is subjective, it is not that simple.

19
20 On question, Mr. Sparks clarified for Commissioner Johansen that under this
21 procedure, notification is provided to the surrounding property owners who then
22 have the opportunity to submit comments, at which point the Planning Director
23 will decide whether to approve or deny the application.

24
25 Commissioner Barnard questioned how the citizens who submitted comments
26 could know for certain that the Planning Director even reviewed their comments.

27
28 Mr. Bunnell advised Commissioner Barnard that it is the responsibility of the
29 Planning Director and any member of staff working on the project to keep the file
30 updated and review and consider these comments prior to making any
31 determination.

32
33 Mr. Sparks noted that without submitting their comments by certified mail and
34 receiving a receipt, the public would not have any guarantee that the comments
35 they submitted had been received.

36
37 Vice-Chairman Maks referred to the Type 2 application, specifically whether all
38 parties of record receive notification of the final land use decision.

39
40 Commissioner Barnard referred to page AP-7, Section 40.10.15.1.C.4,
41 specifically the term "equally or better meets", suggesting that this should be
42 revised to say "equally or exceeds".

43
44 Mr. Bunnell agreed that "better meets" is a judgment call, indicating that
45 something is doing a better job than something else.

46

1 Vice-Chairman Maks indicated that “better” indicates to him a movement toward,
2 while “exceeds” defines that you are already there.

3
4 Mr. Sparks noted that the Minor and Major Adjustments for Regional Centers
5 applications are the result of City Council action, adding that the Planning
6 Commission had recommended only 10%. He mentioned that staff would
7 propose to just carry forth, but not change, the adjustment process for these
8 zoning.

9
10 Vice-Chairman Maks requested questions or comments regarding pages AP-9
11 through AP-10, Section 40.10.15, regarding Minor Adjustment – All Regional
12 Center zones and South Tektronix Station Community Major Pedestrian Routes.

13
14 Vice-Chairman Maks noted that he has the same concerns with subjective criteria,
15 observing that while this is a Type 2 procedure, it now involves a potential
16 adjustment of up to and including 25% of a numerical Development Standards for
17 Major Pedestrian Routes. Observing that the South Tektronix Station Community
18 includes some residential zones, he expressed his concern that 25% is too
19 significant.

20
21 Mr. Sparks explained that the minor and major adjustments for Regional Centers
22 in the South Tektronix Community area are the result of a City Council action,
23 observing that while the Planning Commission had recommended only 10%, staff
24 had proposed this 25% adjustment for the sole purpose of carrying forth, not
25 changing, the adjustment process for these zoning districts.

26
27 Vice-Chairman Maks noted that he understands that although he is not in favor of
28 this 25% in the Regional Center, it has been adopted by the City Council.

29
30 Mr. Sparks noted that the 25% threshold could be revised during the Public
31 Hearing process.

32
33 Vice-Chairman Maks observed that more Planned Unit Developments and
34 increased density are inevitable.

35
36 Vice-Chairman Maks requested questions or comments regarding pages AP-11
37 through AP-12, Section 40.10.15, regarding Major Adjustment.

38
39 Commissioner Johansen referred to page AP-12, Section 40.10.15.3.C.7, pointing
40 out that the cumulative effect should be considered in the event that an individual
41 requests both a minor and a major adjustment.

42
43 Vice-Chairman Maks requested questions or comments regarding pages AP-13
44 through AP-14, Section 40.10.15, regarding Major Adjustment – All Regional
45 Center zones and South Tektronix Station Community Major Pedestrian Routes.

46

1 There was no response.

2
3 Vice-Chairman Maks requested questions or comments regarding pages AP-15
4 through AP-17, Section 40.15, regarding Conditional Use.

5
6 Vice-Chairman Maks questioned whether the City of Beaverton still issues
7 Administrative Conditional Use Permits.

8
9 Mr. Sparks advised Vice-Chairman Maks that an Administrative Conditional Use
10 Permit would no longer be used as an application. Items which utilize the
11 Conditional Use Permit "A" application process now would be a Minor
12 Modification Conditional Use or the adjustment application for a height
13 adjustment.

14
15 Vice-Chairman Maks referred to Section 40.15.05, regarding the purpose,
16 specifically the statement that the conditional use review provides an opportunity
17 to allow the use when there are minimal impacts, to allow the use but impose
18 conditions specifying mitigation measures to address identified concerns, or to
19 deny the use if the impacts are substantial or the concerns cannot be mitigated.

20
21 Mr. Sparks suggested that the phrase could be revised, as follows: "...deny the
22 use if the impacts are too substantial..."

23
24 Vice-Chairman Maks suggested that the phrase could be revised, as follows:
25 "...deny the use if the impacts are deemed substantial..."

26
27 Commissioner Barnard pointed out that the primary issue involves whether the
28 concerns can be mitigated.

29
30 Vice-Chairman Maks commented that a Conditional Use Permit in a residential
31 zone that would increase traffic on a residential street requires a Traffic Analysis,
32 observing that people start complaining when the number of vehicular trips
33 reaches 2,000.

34
35 7:56 p.m. – Commissioner Bliss arrived.

36
37 Vice-Chairman Maks emphasized that in his opinion, and according to traffic
38 consultants, 2,000 vehicular trips on a residential street is automatically deemed
39 substantial, and that beyond 2,000 vehicular trips would be too substantial.

40
41 Mr. Bunnell questioned whether those 2,000 vehicular trips could be mitigated in
42 such a way as to not to be considered substantial.

43
44 Vice-Chairman Maks advised Mr. Bunnell that 2,000 vehicular trips could not be
45 mitigated in such a way as to not to be considered substantial, pointing out that
46 level of services are adequate at the intersection, it is off of a major collector

1 street, there are no issues, and there is not a cut through route, adding that this is
2 just too many vehicular trips.

3
4 Vice-Chairman Maks referred to page AP-16, Section 40.15.15.1.A.3,
5 commenting that this involves a Type 2 application and notification is provided.

6
7 Mr. Sparks reminded Vice-Chairman Maks of his concerns from last week,
8 specifically that adding another 1-1/2 foot of wall on a church might have been
9 the straw that broke the camel's back with regard to approving or denying the
10 application.

11
12 Commissioner Barnard referred to page AP-16, Section 40.15.15.1.A.3,
13 specifically limiting vehicular trips to 100, questioning whether this quantifies
14 what substantial vehicular traffic is.

15
16 Mr. Sparks advised Commissioner Barnard that this number (100) indicates the
17 average of the trip generation for a variety of non-residential uses of 5,000 square
18 feet in size.

19
20 Vice-Chairman Maks noted that a church that had been approved through a Type
21 3 Conditional Use Permit should be allowed a 10% modification up to 1,000
22 square feet with a Type 2 application.

23
24 Mr. Sparks pointed out that items such as window frames and doors are design
25 issues and would be addressed through Design Review, rather than a Conditional
26 Use Permit.

27
28 Commissioner Johansen expressed his opinion that there is nothing that would
29 prohibit an applicant from returning multiple times for minor changes and
30 additional square footage over a period of time.

31
32 Vice-Chairman Maks pointed out that the majority of the applications for
33 Conditional Use Permits involve schools and churches, and some fast-food
34 restaurants. He expressed his opinion that because these issues are so contentious,
35 the majority of those notified within the 500-foot radius would feel entitled to a
36 Type 3 hearing for any potential changes.

37
38 Mr. Sparks suggested that modifications of Conditional Use Permits involve only
39 those that exist within commercial areas or non-residential zoning districts, or at
40 least some distance from residential zoning districts.

41
42 Vice-Chairman Maks expressed his opinion that Mr. Sparks had suggested a
43 feasible compromise, adding that the Fast-Food Mecca that exists at 158th Avenue
44 and Walker Road is actually a commercial zoning district.

45

1 Mr. Bunnell questioned whether he should have to go through some major
2 procedure to make some small modifications to his home, which is located in a
3 residential area.

4
5 Vice-Chairman Maks suggested that the procedure should be determined by the
6 potential impact on essential or critical services.

7
8 Commissioner Barnard referred to page AP-15, line 10, suggesting, suggesting
9 that the word “or” be eliminated, for readability.

10
11 Vice-Chairman Maks observed that this section does not provide that a Minor
12 Modification of a Conditional Use must meet the Comprehensive Plan.

13
14 Mr. Bunnell advised Vice-Chairman Maks that Criteria No. 4 addresses this issue.

15
16 Vice-Chairman Maks expressed his opinion that this section should be clear and
17 readable and should clearly state that a Minor Modification of a Conditional Use
18 must meet the Comprehensive Plan.

19
20 Vice-Chairman Maks requested questions or comments regarding pages AP-18
21 through AP-19, Section 40.15.15, regarding Major Modification of a Conditional
22 Use.

23
24 Vice-Chairman Maks requested questions or comments regarding pages AP-20
25 through AP-21, Section 40.15.15, regarding Conditional Use.

26
27 Commissioner Johansen expressed his concern with confusion that could be
28 created by using the heading “Conditional Use”, and suggested that line 35 of
29 page AP-20 should be amended, as follows: “...the ~~proposal~~ **proposed** use are
30 such...”

31
32 Mr. Bunnell noted that in the interest of consistency, staff prefers the word
33 proposal.

34
35 Commissioner Johansen referred to the Fast-Food Mecca at 158th Avenue and
36 Walker Road, observing that the definition of the area of impact is described as
37 within one half a mile of the subject site and that there had been mention of the
38 appropriate development of the existing surrounding properties. He expressed his
39 opinion that approving a conditional use can have the potential to impact the
40 appropriate future development of an area, adding that he is not comfortable with
41 eliminating the current language that addresses this issue in the existing
42 Development Code.

43
44 Mr. Sparks pointed out that the existing code includes three criteria that address
45 this issue, as follows: 1) the proposed Conditional Use would comply with the
46 purpose of the section and with all applicable conditions of this ordinance; 2) the

1 proposed development would comply with the Comprehensive Plan; and 3) the
2 location, size, design and functional characteristics of the proposed use are such
3 that it can be made reasonably compatible with and have minimum impact on the
4 livability and appropriate development of the property in the surrounding areas.

5

6 Mr. Bunnell pointed out that anything allowed within a particular zone is
7 considered appropriate development.

8

9 Agreeing with Mr. Bunnell, Vice-Chairman Maks observed that this is not
10 necessarily true with a conditional use.

11

12 Mr. Bunnell clarified that development may or may not be appropriate with a
13 conditional use, emphasizing that appropriate is a subjective determination and
14 that only those uses that are permitted outright could not be challenged.

15

16 Commissioner Johansen discussed Home Depot's application, observing that a
17 conditional use may be inappropriate to the development of the surrounding area,
18 under certain circumstances.

19

20 On question, Commissioner Bliss informed Vice-Chairman Maks that he does not
21 feel comfortable with the half-mile impact area.

22

23 Vice-Chairman Maks emphasized that in some cases, a Conditional Use Permit
24 has a tremendous impact on the surround area, pointing out that in his opinion,
25 Southridge High School impacts the neighborhood within a two-mile radius, with
26 regard to traffic flow, cut-through traffic, etc. He discussed the application of
27 Home Depot for a Conditional Use Permit, specifically the potential traffic
28 impact.

29

30 Mr. Bunnell observed that a minimal impact within three hundred feet would
31 indicate less than minimal impact beyond the three hundred feet.

32

33 Vice-Chairman Maks disagreed with Mr. Bunnell, stating that there is more
34 impact from Southridge High School on Haystack and 135th Avenue than on 125th
35 Avenue, emphasizing that the residential streets bear the brunt of the impact.

36

37 Vice-Chairman Maks requested questions or comments regarding pages AP-22
38 through AP-24, Section 40.15.15, regarding Preliminary Planned Unit
39 Development.

40

41 Commissioner Johansen requested clarification of why the Preliminary Planned
42 Unit Development would be chosen versus the Planned Unit Development.

43

44 Mr. Sparks advised Commissioner Johansen that the Preliminary Planned Unit
45 Development provides the ability to submit only a general concept map. He
46 referred to the old Progress Quarry, observing that staff had received only a

1 proposal indicating that there would be residential development at one location
2 and higher residential elsewhere – basically a concept of what the applicant would
3 like to achieve.

4

5 Mr. Bunnell stated that an applicant could submit an application and receive a yes
6 or a no and some comments on their basic concept, at which point they could
7 refine their application.

8

9 Mr. Sparks observed that the applicant could then submit a final plan with a
10 greater level of detail, distinguishing it from the preliminary plan.

11

12 Commissioner Johansen pointed out that an applicant is not permitted to resubmit
13 an application that had been denied.

14

15 Mr. Sparks noted that while an applicant is not permitted to resubmit the same
16 application, an application that is different from that which was previously denied
17 could be submitted.

18

19 Vice-Chairman Maks expressed his approval of the concept of a Preliminary
20 Planned Unit Development, observing that there are often issues that he wishes
21 could have been addressed prior to the Planned Unit Development application.
22 He pointed out that while it might be necessary, he feels reluctant to deny an
23 application that has satisfactorily addressed most of the applicable criteria when it
24 is possible to resolve the issues of concern.

25

26 Mr. Sparks clarified that the land use order would authorize whatever is being
27 proposed, observing that it should be conditioned to articulate exactly what has
28 been approved.

29

30 Commissioner Barnard expressed concern that an application might not receive
31 the necessary level of scrutiny.

32

33 Observing that the Planned Unit Development application must be submitted
34 within two years of the Preliminary Planned Unit Development application, Vice-
35 Chairman Maks noted that there could be a great deal of change within two years,
36 including both infrastructure and demand.

37

38 Mr. Bunnell suggested a standard Condition of Approval to address this issue.

39

40 Commissioner Bliss referred to page AP 24, Section 50.15.15.4.E.1.b, expressing
41 his opinion that the time period is too short for Planned Unit Developments which
42 would generally exceed the five years from approval to completion. He suggested
43 that any three-phase development could be completed within five years, while
44 anything greater than three phases should be allowed ten years.

45

46 Mr. Bunnell requested clarification of the definition of phase.

1 Commissioner Bliss explained that each phase would be defined by the manner in
2 which it is going to develop.

3
4 Expressing his concern with the logistics of this issue, Mr. Bunnell suggested that
5 an applicant could define a phase to his own advantage in order to gain additional
6 time, emphasizing the necessity of determining a clear definition for this term.

7
8 Commissioner Bliss observed that there are always all kinds of “what-if’s”,
9 emphasizing that he does not want the City of Beaverton to be viewed as being
10 anti-development.

11
12 Vice-Chairman Maks questioned whether an extension process is still available.

13
14 Mr. Sparks advised Vice-Chairman Maks that this particular section actually
15 replaces the previous extension process, noting that the current Planned Unit
16 Development has a deadline of two years, with a possibility of up to two years in
17 extensions.

18
19 Commissioner Barnard requested clarification of whether a seven-phase Planned
20 Unit Development would only require that the construction of Phase 1 be started
21 within five years.

22
23 Vice-Chairman Maks clarified that all phases must be started within five years.

24
25 Commissioner Bliss expressed his opinion that some of the rules are too stringent
26 and confining, adding that this potentially interferes with an applicant’s ability to
27 function and work within the applicable regulations.

28
29 Vice-Chairman Maks observed that he had read this document, which he felt was
30 too lengthy. He pointed out that adjacent property-owners become angry when a
31 vacant property is later developed in a completely dissimilar manner from what
32 had been approved in the Planned Unit Development. He noted that he would
33 prefer that any changes be submitted and approved through an extension.

34
35 Mr. Bunnell referred to page AP-24, Section 40.15.15.4.E.1.H, which refers the
36 extension of a decision to Section 50.93, observing that a two-year extension is
37 available on the original decision.

38
39 Commissioner Bliss emphasized that a developer would attempt to find ways
40 around any rules that are too stringent and confining, expressing his opinion that a
41 developer would be more willing to compromise if it is possible to function or
42 work within the rules.

43
44 Vice-Chairman Maks noted that a developer might determine that the rules are too
45 confining and decide not to bother submitting an application. He requested
46 clarification of how many extensions are available.

1 Mr. Bunnell noted that only one extension is available.

2
3 Vice-Chairman Maks expressed his opinion that this should be changed.

4
5 Mr. Bunnell pointed out that while staff had not intentionally limited the number
6 of extensions available, because situations change, it is necessary to prevent an
7 applicant from filing for multiple extensions without making any progress.

8
9 Vice-Chairman Maks pointed out that after several years, the traffic patterns could
10 change, which would be an issue and could necessitate a denial of a request for an
11 extension.

12
13 Mr. Sparks referred to page PR-65, Section 50.93.4.B., which provides that there
14 has been no change in circumstances or the applicable regulations or Statutes
15 likely to necessitate modification of the decision or conditions of approval since
16 the effective date of the decision for which the extension is sought.

17
18 Vice-Chairman Maks expressed his opinion that if the decision-maker is truly
19 fulfilling his responsibility, two extensions should be permitted, noting that this
20 should be a Type 2 administrative decision, which provides for notification to
21 adjacent property owners. He pointed out that a Type 3 could provide for a
22 hearing and possible additional Conditions of Approval, in order to address
23 possible changes, rather than denying the extension.

24
25 Mr. Sparks pointed out that additional Conditions of Approval to address changes
26 is essentially approving a new conditional use or planned unit development. He
27 suggested that the applicant should be required to complete the new conditional
28 use or planned unit development process, rather than receiving an extension.

29
30 Observing that he feels this development is necessary and should be approved,
31 Vice-Chairman Maks emphasized that he does not want the development not to
32 occur because the extension was denied due to the necessity of a right-hand-turn
33 lane or a median. He described a potential planned unit development that has
34 been approved with five Conditions of Approval, noting that the permitted period
35 of time has elapsed and the applicant has requested an extension, although
36 circumstances have changed. He questioned the possibility of conditioning the
37 extension of decision to provide for an additional two years as long as that
38 condition also becomes a part of the proposed development, specifically whether
39 the extension of a decision constitutes an actual land use action.

40
41 Vice-Chairman Maks requested questions or comments regarding pages AP-25
42 through AP-27, Section 40.15.15, regarding Final Planned Unit Development.

43
44 Commissioner Bliss referred to page AP 26, specifically Section 40.15.15.5.C17,
45 requesting clarification of the term "can reasonably accommodate..."

46

1 Mr. Bunnell expressed his opinion that this is a moot point and observed that the
2 intent of this term involves a subjective decision of whether these features are
3 within reason. He questioned whether anyone has a suggestion that could
4 possibly take this conversation beyond this particular language.

5
6 Vice-Chairman Maks stated this issue involves a subjective decision, which is
7 why it is a Type 3 Planned Unit Development, has a specific purpose and why this
8 unique application is before a hearings body.

9
10 Commissioner Johansen referred to page AP-26, Section 40.15.15.5.C.8,
11 observing that this addresses the compatibility of appropriate development with
12 the surrounding area within a half mile of the subject site.

13
14 Vice-Chairman Maks expressed his appreciation of the efforts made by staff in
15 the sections involving planned unit developments.

16
17 Vice-Chairman Maks requested questions or comments regarding pages AP-28
18 through AP-43, Section 40.20, regarding Design Review.

19
20 Commissioner Johansen referred to page AP-28, Section 40.20.10.3.A,
21 questioning whether Medium Density R-4 should be included in this designation.

22
23 Commissioner Johansen expressed concern that this might be utilized as a
24 transition zone.

25
26 Mr. Sparks commented that he feels that this would provide for a good
27 conversation during the Public Hearing.

28
29 Commissioner Barnard referred to page AP-29, Section 40.20.15.1.A.1,
30 specifically the addition of not more than one attached dwelling. Observing that
31 this seems simple on the surface, he questioned that situation of an individual who
32 wants to do this on a smaller scale.

33
34 Mr. Sparks stated that within a single-family zone, an accessory dwelling unit
35 would be addressed through the accessory dwelling unit process. He pointed out
36 that this permitted use within the single-family zone would not involve design
37 review. He mentioned that adding an additional unit to a ten-unit apartment
38 within an R-1 zoning district would necessitate a Type 1 application.

39
40 Mr. Bunnell pointed out that this use would be required to meet all approval
41 criteria.

42
43 Commissioner Johansen questioned what would be involved in converting a
44 single residence to a duplex.

45

1 Observing that the word duplex is no longer used, Mr. Sparks stated that if this
2 were a permitted use, design review would not be required.

3
4 Commissioner Bliss discussed page AP-38, Section 40.20.15.2.C.10.

5
6 Mr. Sparks informed Commissioner Bliss that his comment is accepted as
7 universal.

8
9 Commissioner Barnard pointed out that it is not desirable to make everything flat
10 by grading.

11
12 Commissioner Bliss emphasized that he does not want to see the hills of San
13 Francisco, either, noting that while it costs money to grade, it is necessary to have
14 the ability to do so.

15
16 Vice-Chairman Maks requested questions or comments regarding pages AP-44
17 through AP-45, Section 40.25, regarding Flexible and Zero Yard Setbacks.

18
19 Mr. Sparks pointed out that through C.R.A.C., staff had suggested that the flexible
20 setback for an individual lot would be considered a Type 1 with the neighbors'
21 endorsement and a Type 3 without the neighbors' endorsement. He mentioned
22 that staff had suggested splitting the difference, noting that this would involve a
23 Type 2 process, involving notification to the neighbors, with or without
24 neighborhood endorsement.

25
26 Mr. Bunnell pointed out that requiring the neighborhood endorsement changes the
27 process considerably, emphasizing that the City of Beaverton, not the neighbors,
28 has this authority.

29
30 Mr. Sparks pointed out that a past issue involved a property owner who insisted
31 he was not the property owner and that staff was unable to prove that he was the
32 property owner. He mentioned that this would require a Type 3 process for
33 absentee neighbors, or even neighbors who do not get along, which creates
34 unnecessary complications in the development review process.

35
36 Vice-Chairman Maks requested questions or comments regarding pages AP-46
37 through AP-47, Section 40.25.15, regarding Flexible Setback for Individual Lot
38 Without Endorsement.

39
40 There was no response.

41
42 Vice-Chairman Maks requested questions or comments regarding pages AP-48
43 through AP-49, Section 40.25.15, regarding Flexible Setback for a Proposed Land
44 Division.

45
46 There was no response.

1 Vice-Chairman Maks requested questions or comments regarding pages AP-50
2 through AP-56, Section 40.25.15, regarding Flexible Setback for a Proposed
3 Annexation, Zero Side or Zero Rear Yard Setback for a Proposed Residential
4 Land Division and Zero Side Yard Setback for a Proposed Non-Residential Land
5 Division.

6
7 Vice-Chairman Maks requested clarification of the flexible setback for a proposed
8 annexation.

9
10 Observing that the setbacks for Washington County are different from those of the
11 City of Beaverton, Mr. Sparks advised Vice-Chairman Maks that the Planning
12 Commission had requested that these setbacks be reviewed through the public
13 hearing process. He noted that this section provides for a procedure that would
14 make these setbacks conform.

15
16 Vice-Chairman Maks requested questions or comments regarding pages AP-57
17 through AP-65, Section 40.30, regarding Historic Review.

18
19 Mr. Sparks reminded members of the Planning Commission that the Historic
20 Resource Review Committee is no longer included within the Development
21 Review process.

22
23 Commissioner Bliss referred to page AP-52, Section 40.25.15.5.C.3, and
24 questioned the function of the 0/0 setback.

25
26 Mr. Bunnell pointed out that this is an existing code criterion.

27
28 Vice-Chairman Maks noted that he is waiting for comments or questions
29 regarding historic review.

30
31 Commissioner Barnard referred to page AP-60, observing that this indicates that a
32 City official can provide for an emergency demolition of a landmark.

33
34 Mr. Sparks informed Commissioner Barnard that staff is attempting to distinguish
35 between two types of demolitions, observing that in the event of a hazard, the
36 Building Official can declare an emergency.

37
38 Commissioner Barnard emphasized that this is not permitted without an
39 emergency and requested clarification of why this would be desired without the
40 existence of an emergency situation.

41
42 Mr. Sparks expressed his opinion that the demolition of The Henry House would
43 not qualify as an emergency, suggesting that the threshold should be phrased to
44 provide for the demolition of a landmark in a situation that is not considered an
45 emergency.

46

1 Vice-Chairman Maks requested questions or comments regarding pages AP-66
2 through AP-73, Section 40.35, regarding Home Occupations.

3
4 Commissioner Johansen referred to page AP-70, Section 40.35.15.2.A.3, pointing
5 out that he had not found any hour restrictions within this section in the existing
6 code.

7
8 Mr. Bunnell mentioned that he does not believe hour restrictions are specified
9 within the existing code, observing that this is often conditioned under each
10 individual decision.

11
12 Commissioner Johansen noted that his initial reaction had been that 7:00 a.m. to
13 10:00 p.m. are lenient hours for home occupations.

14
15 Mr. Sparks mentioned that his wife does business with some of the craft/home
16 office/scrap-booking-type businesses, observing that this takes place in a private
17 home and sometimes occurs until midnight. He pointed out that he would not be
18 pleased with this late traffic if this were his neighbor.

19
20 Vice-Chairman Maks stated that he understands Commissioner Johansen's
21 concerns, although these hours of operation are usually conditioned. He
22 commented that it is easier to designate flexible hours within the code.

23
24 Commissioner Johansen expressed his concern that the reality may result in the
25 eight daily customers generating an increased use that had not been envisioned
26 with the original application.

27
28 Vice-Chairman Maks mentioned that in reality, an applicant generally files for a
29 home occupancy permit only when the neighbors complain.

30
31 Mr. Bunnell agreed that the flexible hours are rather generous, emphasizing that
32 this is only a proposal.

33
34 Mr. Naemura emphasized that it is necessary to retain the option of conditioning
35 the hours within the stipulated hours of 7:00 a.m. to 10:00 p.m.

36
37 Commissioner Johansen emphasized that any notification should provide the
38 information that if the application is approved and not conditioned, the permitted
39 hours of operation will be from 7:00 a.m. to 10:00 p.m.

40
41 Mr. Sparks advised Commissioner Johansen that the notice would explain the
42 proposed use and the criteria would reference the section number for the approval
43 criteria, although it would neither list the specific thresholds nor the specific
44 criteria verbatim.

45

1 Commissioner Johansen pointed out that the public would not be aware of what
2 this actually means or that conditioning is an option.

3
4 Vice-Chairman Maks emphasized that a home occupation involves a Type 2
5 procedure, pointing out that any adjacent property owners would have the option
6 of finding out what a Type 2 procedure involves, specifically approval, denial or
7 approval with conditions.

8
9 Mr. Bunnell noted that the notice that is mailed describes the proposal, which
10 should also include the proposed hours of operation, adding that adjacent property
11 owners would then have the opportunity to react.

12
13 Commissioner Johansen emphasized that the notice should clearly indicate the
14 proposed hours of operation.

15
16 Mr. Sparks advised Commissioner Johansen that this is included in the application
17 submittal, which includes issues such as the number of employees and hours of
18 operation.

19
20 Mr. Bunnell assured Commissioner Johansen that the hours of operation would be
21 included in the notice.

22
23 Vice-Chairman Maks requested questions or comments regarding pages AP-74
24 through AP-86, Section 40.40, regarding Land Division.

25
26 There was no response.

27
28 Vice-Chairman Maks requested questions or comments regarding pages AP-87
29 through AP-89, Section 40.45, regarding Loading Determination.

30
31 There was no response.

32
33 Mr. Naemura commented that he would like to discuss land divisions, specifically
34 regarding BEA house, and discussed a particular case that occurred in Skamania
35 County. Noting that there is not much procedure there and that most things just
36 happen, he mentioned that there had been a huge setback requirement, as well as a
37 lot line adjustment, slightly similar to the situation with Home Depot.

38
39 Mr. Bunnell pointed out that this particular setback situation had been taken into
40 consideration when preparing this document.

41
42 Mr. Sparks commented that in their attempt to avoid setbacks through a lot line
43 adjustment, Home Depot would have created a two-foot wide legal parcel that
44 would separate their development from the residential lot.

45

1 Vice-Chairman Maks requested questions or comments regarding pages AP-90
2 through AP-95, Section 40.50, regarding Parking Requirement Determination.

3
4 There was no response.

5
6 Vice-Chairman Maks requested questions or comments regarding pages AP-96
7 through AP-98, Section 40.55, regarding Planning Director's Interpretation.

8
9 Mr. Sparks clarified that the final document would refer to this as Director's
10 Interpretation.

11
12 Vice-Chairman Maks requested questions or comments regarding pages AP-99
13 through AP-101, Section 40.60, regarding Signs.

14
15 There was no response.

16
17 Vice-Chairman Maks requested questions or comments regarding pages AP-102
18 through AP-104, Section 40.65, regarding Solar Access.

19
20 Mr. Sparks pointed out that staff would like to discuss deleting this application
21 during the Public Hearing process.

22
23 Vice-Chairman Maks requested questions or comments regarding pages AP-105
24 through AP-106, Section 40.70, regarding Street Design Modification.

25
26 Commissioner Bliss questioned the rationale for this particular process.

27
28 Vice-Chairman Maks noted that with an approved land use, a modification of the
29 street design requires this process.

30
31 Mr. Sparks stated that this section addresses the standard cross-sections for a
32 variety of streets and cul-de-sacs that the Engineering Department has included in
33 Chapter 60, emphasizing that this does not address anything like the sub-base
34 standards or intersection site lines, which are controlled by the Engineering
35 Design Manual.

36
37 Commissioner Bliss expressed concern that this is not clear within this section.

38
39 Mr. Sparks referred to Section 60.55, which only addresses the cross-sections. He
40 pointed out that this is addressed in Section 60.60 of the existing code.

41
42 Vice-Chairman Maks handed the gavel to Commissioner Barnard while he
43 temporarily left the room.

44
45 Commissioner Johansen pointed out that while one of the potential impacts of the
46 Street Design Modification is an attempt to reduce speeds, this action could also

1 potentially impede the ability of that roadway to fulfill its function within the
2 Comprehensive Plan. He suggested including approval criteria to provide that
3 would ensure that the roadway would continue to fulfill its function.
4

5 Mr. Sparks referred to page AP-106, Section 40.70.15.1.C.6, observing that
6 Margaret Middleton had referenced several policies of the Transportation Element
7 of the Comprehensive Plan that should address this issue.
8

9 Acting Chairman Barnard requested questions or comments regarding pages AP-
10 107 through AP-108, Section 40.75, regarding Street Vacation.
11

12 Commissioner Johansen referred to page AP-107, Section 40.75.15.1.C,
13 requesting that this be amended, as follows: "...the ~~City Council~~ **decision-**
14 **making authority** shall make findings of fact..."
15

16 Mr. Bunnell explained why this section specifies the City Council, rather than the
17 decision-making authority, and Commissioner Johansen agreed that this section
18 should be left as it is.
19

20 Acting Chairman Barnard requested questions or comments regarding pages AP-
21 109 through AP-112, Section 40.80, regarding Temporary Use.
22

23 Mr. Sparks mentioned that Commissioner Bliss had requested clarification of the
24 term "holiday vegetation", observing that this includes items that occur
25 seasonally, such as Christmas trees.
26

27 Commissioner Barnard referred to page AP-110, Section 40.80.15.1.C.10,
28 requesting the following amendment: "...Section 60.30: of this Code."
29

30 Acting Chairman Barnard requested questions or comments regarding pages AP-
31 113 through AP-116, Section 40.80.15, regarding Temporary Mobile Sales.
32

33 There was no response.
34

35 Acting Chairman Barnard requested questions or comments regarding pages AP-
36 117 through AP-119, Section 40.80.15, regarding Temporary Structure.
37

38 There was no response.
39

40 Acting Chairman Barnard requested questions or comments regarding pages AP-
41 120 through AP-121, Section 40.80.15, regarding Temporary Real Estate Office.
42

43 There was no response.
44

45 Acting Chairman Barnard requested questions or comments regarding pages AP-
46 122 through AP-123, Section 40.85, regarding Text Amendment.

1 There was no response.

2
3 Acting Chairman Barnard requested questions or comments regarding pages AP-
4 124 through AP-135, Section 40.90, regarding Tree Plan.

5
6 Vice-Chairman Maks returned and reclaimed the gavel from Acting Chairman
7 Barnard.

8
9 Vice-Chairman Maks questioned whether the general comment on the concern
10 expressed by members of C.R.A.C.

11
12 Observing that this is a good opportunity to discuss certain concerns that had been
13 expressed by a member of C.R.A.C., Mr. Sparks noted that the issue had involved
14 land divisions and tree removal. He pointed out that the current Code provides
15 that during final plat process of a land division, only those that are in the way of
16 construction, streets, utilities, water and lights can be removed. He further
17 clarified that none of the other trees on the site can be addressed until the site-by-
18 site, lot-by-lot construction process, emphasizing that the cost associated with this
19 process is substantial, particularly with regard to grading. He explained that this
20 member of C.R.A.C. had proposed that any proposed subdivision should also be
21 subject to the appropriate tree removal permit for the removal of any necessary
22 trees within the site in order to accommodate the proposed development. He
23 emphasized that this procedure considers the entirety of the development within
24 the lot.

25
26 Mr. Bunnell pointed out that with decreasing lot sizes, preserving any trees
27 becomes more difficult and sometimes necessitates steep cuts and less desirable
28 designs.

29
30 Vice-Chairman Maks pointed out that experience has taught him that trees
31 basically survive best when left in clusters, noting that a Tree Preservation Plan
32 indicates to the applicant that certain trees must be preserved in a certain fashion
33 within a particular grove.

34
35 Commissioner Johansen expressed his opinion that grouping is not going to make
36 any difference with something like a big Oak tree.

37
38 Observing that an Oak tree would not survive beyond fifty years, Vice-Chairman
39 Maks pointed out that this tree would not last the lifetime of the house.

40
41 Commissioner Barnard noted that a significant tree would enhance the value of a
42 development.

43
44 Vice-Chairman Maks commented that any developer would attempt to preserve a
45 tree that would increase the value of the property. He mentioned that an attempt

1 is being made to redefine how significant resources would be addressed upon
2 annexation from Washington County.

3

4 Mr. Sparks attempted to explain sub-divisions as they relate to the existing and
5 proposed Codes, observing that there is currently a situation with a large, single-
6 family lot that has been essentially clear-cut by the owner. Because that lot is a
7 developed piece of property, the current Code permits the property-owner to
8 clear-cut the land, although if this same property-owner attempted to sub-divide
9 the property first, he would not be allowed to clear-cut the site. He pointed out
10 that because of these restrictions, this property-owner had clear-cut the site prior
11 to submitting an application for the subdivision, which is one way to get around
12 this particular regulation. He explained that the proposed Code has a new
13 designation, which is referred to as Community Trees, which addresses trees that
14 are ten-inches or greater in diameter. Observing that the proposed removal of
15 more than five of these within one year requires a Type 2 application, which is
16 essentially the same as a land division, he mentioned that with or without a land
17 division, it is still necessary to obtain a permit for the removal of those trees.

18

19 Vice-Chairman Maks suggested the possibility of simplifying the criteria for
20 removal of all of the trees, noting that this substantially increases the cost of
21 development at a time when affordable housing is a significant issue. He
22 expressed his opinion that this section should be completely removed and that the
23 individual developer should address the process, adding that the public would also
24 have a significant opinion regarding this issue.

25

26 Commissioner Bliss pointed out that a great deal of this land was historically a
27 marsh or farmland and although there were not a great deal of trees there at that
28 time, now there are more than he can count.

29

30 Commissioner Barnard expressed his opinion that some individuals fight to save a
31 tree that they don't particularly care about only to prevent future development in
32 their neighborhood.

33

34 Commissioner Bliss agreed that many individuals don't want development if it
35 means that it would occur in their back yard.

36

37 Vice-Chairman Maks pointed out that Tree Preservation Plans are approved and
38 the developers kill the trees, at which point density is increased.

39

40 Vice-Chairman Maks requested questions or comments regarding pages AP-136
41 through AP-138, Section 40.95, regarding Variance.

42

43 There was no response.

44

45 Vice-Chairman Maks requested questions or comments regarding pages AP-139
46 through AP-146, Section 40.97, regarding Zone Change.

1 Commissioner Johansen referred to the R-7 and R-5 zoning districts, observing
2 that a provision for adequate public facilities is not included in this draft.

3
4 Mr. Sparks advised Commissioner Johansen that this is included within the
5 criteria Facilities Review Conditions of Approval, emphasizing that this is
6 included for every Type 2 and Type 3 application.

7
8 Commissioner Johansen requested clarification of whether demonstration of
9 public need is still included within the Comprehensive Plan.

10
11 On question, Mr. Bunnell informed Vice-Chairman Maks that this involves
12 criteria that the Facilities Review Committee is required to review for all Type 2
13 and 3 applications.

14
15 On question, Mr. Sparks advised Vice-Chairman Maks that a Comprehensive Plan
16 Amendment and Zone Change involve a legislative action.

17
18 Vice-Chairman Maks observed that this is a quasi-judicial action if it is submitted
19 by an applicant, adding that the application could be denied based solely on
20 school capacity, which is not addressed by Facilities Review.

21
22 Mr. Sparks pointed out that a Comprehensive Plan Amendment application would
23 not be subject to Facilities Review analysis.

24
25 Observing that Chapter 40 has been reviewed, Mr. Sparks advised the
26 Commissioners that staff would work on their revisions, adding that a tentative
27 date of October 3, 2001, has been set for the first of several Public Hearings
28 regarding the Code Updates. On question, he informed Vice-Chairman Maks that
29 he has not yet had the opportunity to discuss the process for these Public Hearings
30 with Chairman Voytilla, emphasizing that due to Ballot Measure 56 requirements,
31 the first meeting would be subject to public testimony. He pointed out that the
32 majority of the public response that he is aware originates with the Committee for
33 Citizen Involvement (CCI), adding that he would be surprised if any member of
34 the public not associated with a particular interest group attends.

35
36 **MISCELLANEOUS BUSINESS:**

37
38 Mr. Sparks reminded the Planning Commissioners that the next meeting would be
39 limited to a Work Session regarding The Round, adding that City Attorney Mark
40 Pilliod would be available to discuss the Disposition and Development Agreement
41 (DDA) that has been executed with the developer, as well as the highlights of the
42 situation. He pointed out that at least one Comprehensive Plan Amendment and a
43 revised Planned Unit Development would be involved.

44
45 The meeting adjourned at 10:19 p.m.